

HOUSE BILL No. 2711

By Representative Barbieri-Lightner

2-4

AN ACT concerning certain crimes relating to computers; amending K.S.A. 2003 Supp. 21-3755 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2003 Supp. 21-3755 is hereby amended to read as follows: 21-3755. (a) As used in this section:

(1) "Access" means to instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or computer network.

(2) "Computer" means an electronic device which performs work using programmed instruction and which has one or more of the capabilities of storage, logic, arithmetic or communication and includes all input, output, processing, storage, software or communication facilities which are connected or related to such a device in a system or network.

(3) "Computer network" means the interconnection of communication lines, including microwave or other means of electronic communication, with a computer through remote terminals, or a complex consisting of two or more interconnected computers.

(4) "Computer program" means a series of instructions or statements in a form acceptable to a computer which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system.

(5) "Computer software" means computer programs, procedures and associated documentation concerned with the operation of a computer system.

(6) "Computer system" means a set of related computer equipment or devices and computer software which may be connected or unconnected.

(7) "Financial instrument" means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card, debit card or marketable security.

(8) "Property" includes, but is not limited to, financial instruments, information, electronically produced or stored data, supporting documentation and computer software in either machine or human readable form.

1 (9) “Services” includes, but is not limited to, computer time, data
2 processing and storage functions and other uses of a computer, computer
3 system or computer network to perform useful work.

4 (10) “Supporting documentation” includes, but is not limited to, all
5 documentation used in the construction, classification, implementation,
6 use or modification of computer software, computer programs or data.

7 (b) (1) Computer crime is:

8 (A) Intentionally and without authorization accessing and damaging,
9 modifying, altering, destroying, copying, disclosing or taking possession
10 of a computer, computer system, computer network or any other
11 property;

12 (B) using a computer, computer system, computer network or any
13 other property for the purpose of devising or executing a scheme or arti-
14 fice with the intent to defraud or for the purpose of obtaining money,
15 property, services or any other thing of value by means of false or fraud-
16 ulent pretense or representation; or

17 (C) intentionally exceeding the limits of authorization and damaging,
18 modifying, altering, destroying, copying, disclosing or taking possession
19 of a computer, computer system, computer network or any other
20 property.

21 (2) Computer crime is a ~~severity level 8~~, nonperson *off-grid* felony
22 *for which a person shall be required to serve at least 10-years’ impris-*
23 *onment as a condition of probation. The person shall not be eligible for*
24 *release on probation, suspension or reduction of sentence or parole until*
25 *the person has served the mandatory sentence provided by this subsection.*

26 (3) In any prosecution for computer crime, it is a defense that the
27 property or services were appropriated openly and avowedly under a
28 claim of title made in good faith.

29 (c) (1) Computer password disclosure is the unauthorized and inten-
30 tional disclosure of a number, code, password or other means of access
31 to a computer or computer network.

32 (2) Computer password disclosure is a class A nonperson
33 misdemeanor.

34 (d) Computer trespass is intentionally, and without authorization ac-
35 cessing or attempting to access any computer, computer system, com-
36 puter network or computer software, program, documentation, data or
37 property contained in any computer, computer system or computer net-
38 work. Computer trespass is a ~~class A nonperson misdemeanor~~ *nonperson*
39 *off-grid felony for which a person shall be required to serve at least three-*
40 *year’s imprisonment as a condition of probation. The person shall not be*
41 *eligible for release on probation, suspension or reduction of sentence or*
42 *parole until the person has served the mandatory sentence provided by*
43 *this subsection.*

1 (e) *A person convicted of a violation of this section shall be required*
2 *to pay full restitution for all damages caused by the violation prior to final*
3 *release.*

4 (f) This section shall be part of and supplemental to the Kansas crim-
5 inal code.

6 New Sec. 2. Subject to appropriation acts, the attorney general shall
7 conduct a campaign to inform the public about the mandatory sentences
8 and restitution required by K.S.A. 21-3755, and amendments thereto.

9 Sec. 3. K.S.A. 2003 Supp. 21-3755 is hereby repealed.

10 Sec. 4. This act shall take effect and be in force from and after its
11 publication in the statute book.

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